



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/569,227	02/23/2006	Ryohei Yasuda	286220US6PCT	9434
22850 7590 12/24/2008 OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314			EXAMINER QUADER, FAZLUL	
			ART UNIT	PAPER NUMBER
			2164	
			NOTIFICATION DATE	DELIVERY MODE
			12/24/2008	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentdocket@oblon.com
oblonpat@oblon.com
jgardner@oblon.com

<p align="center">Advisory Action Before the Filing of an Appeal Brief</p>	Application No. 10/569,227	Applicant(s) YASUDA, RYOHEI	
	Examiner FAZLUL QUADER	Art Unit 2164	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 26 November 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
- (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ They raise the issue of new matter (see NOTE below);
- (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
- The status of the claim(s) is (or will be) as follows:
- Claim(s) allowed: _____.
- Claim(s) objected to: _____.
- Claim(s) rejected: 1-8.
- Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

/Charles Rones/
Supervisory Patent Examiner, Art Unit 2164

FAZLUL QUADER
Examiner
Art Unit: 2164

Continuation of 11. does NOT place the application in condition for allowance because: Nakayama discloses, a content acquisition method (Nakayama: col. 1, lines 20-29) comprising: a request information transmission step of transmitting request information to an external section in response to a request for content data (Nakayama: abs. lines 4-6), said request information requesting address information of a plurality of content provision apparatus capable of providing said content data (Nakayama: col. 4, lines 32-41), an information reception step of receiving from said external section said address information of said plurality of content provision apparatus capable of providing said content data, and said data size information of said content data, after transmitting said request information (Nakayama: col. 5, lines 16-25); a division position determination step of determining division start positions and division end positions specifying division parts of said content data to request said content data in divided form from said plurality of content provision apparatus, based on the number of pieces of said address information and said data size information received by said information reception step (Nakayama: col. 4, lines 16-24); a division part request information transmission step of transmitting division part request information including content identification information of said content data, and said division start positions and division end positions of said division parts of said content data, such that each said division part is requested from different said content provision apparatus (Nakayama: col. 4, lines 16-24); a division part reception step of receiving said division parts from said plurality of content provision apparatus after transmitting said division part request information (Nakayama: col. 4, lines 16-24); a temporarily storing step of temporarily storing said division parts received by said division part reception step (Nakayama: col. 9, lines 31-42); and a data restoring step of combining said division parts temporarily stored by said temporarily storing step to restore said content data (Nakayama: col. 9, lines 31-42, reproducing streaming contents); Nakayama, however, does not explicitly disclose, "data size information of said content data"; Sakata, on the other hand, discloses, "data size information of said content data" (Sakata: [0016]; claim 12, last 5 lines). In claim 12, Sakata further discloses, an information provision system that provides a content destined for a terminal, said content created by a content provider, said information provision system comprising: a broadcast station for broadcasting said content via data broadcasts, a data communication server agent for accumulating said content onto a server on a network as well as setting access information to said server, and a content sending coordinator for requesting broadcast or accumulation onto a server of a content created by said content provider and presenting information necessary for receiving said content via broadcasts or information necessary for accessing said server to a terminal via a communication circuit, and that said content sending coordinator considers the content transmission cost, transmission time, traffic on the transmission path, and transmission data size before selecting said broadcast station or data communication server agent.

Sakata further states in claim 8, an information provision system according to claim 6 or 7, wherein said content provider accumulates said created content onto a server on a network, that said content sending coordinator includes the address information of said content on the network in said information to be presented to a terminal, and that said terminal manages a content received via data broadcasts in linkage with said address information. In claim 9, Sakata further discloses, an information provision system according to claim 8, wherein said terminal acquires a content from said server on a network based on said address information, which content the terminal failed to receive via data broadcasts. Both Nakayama and Sakata are of the same field of endeavor, they specifically teach content acquisition (Nakayama: col. 1, lines 20-29; Sakata: [0008]). Therefore, the rejections for claims 1- 8 are maintained.